

Claims 4, 11 and 19 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner states that the term "temperature resistant alloy" is unclear and not sufficiently descriptive because all alloys are to some extent "temperature resistant". With respect to claims 11 and 19, the Examiner has objected to the term "let" accurately identifying this as a typographical error. Applicant respectfully traverses.

Claims 4, 11 and 19 have each been amended to address the Examiner's concerns. Accordingly, withdrawal of the rejection is respectfully requested.

The Examiner has indicated that should claims 11, 12 and 16 be found allowable, claims 22, 24 and 25 would be objected to under 35 U.S.C. §1.75 as being a substantial duplicate thereof. Applicant has amended the claims to more distinctly point out the differences between claims 11, 12 and 16 and 22, 24 and 25, respectively. Accordingly, Applicant asserts that these claims are no longer substantial duplicates of one another and are patentable in the same application.

Claims 1-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 5,683,650. Applicant submits herewith a Declaration executed by Applicant's representative obviating the obviousness-type double patenting rejection. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 11, 16, 22, 23 and 25 are rejected under 35 U.S.C. §102(b) as being anticipated by the NATIONAL AND KARBATE brochure. Specifically, the Examiner states that the NATIONAL AND KARBATE brochure teaches on pages 6 and 7 a U-shaped conduit (the sweep return bend for example) which shows all properly limiting aspects of the above claims. Applicant respectfully traverses.

Even if the Examiner's contention that the method of use of the presently claimed invention is not patentably distinguishable over the prior art is accurate, which Applicant does not concede, the claims include a limitation requiring a gas receiving opening generally on the same longitudinal axis of the second leg as the outlet opening, a requirement present in each of the rejected

claims. However, this element is not provided for in the prior art cited by the Examiner. In this regard, Applicant submits that the prior art does not anticipate the present claims because at least one critical limitation is not taught.

In addition, Applicant submits that the prior art does not suggest the presently claimed invention. While the Examiner gives no credence to the environment of use of the presently claimed invention, it is necessary in determining obviousness to evaluate the suggestion to the skilled artisan to modify the prior art to reach Applicant's claimed invention. In this instance, the prior art is directed to pipes, tubes, fittings and valves. In this context, there is no reason nor suggestion why the skilled artisan would create an opening in the, for example, elbow of the sweep return bend nor a reason to position such an opening generally on the longitudinal axis of the second leg. Accordingly, Applicant submits that the prior art does not anticipate nor suggest the presently claimed invention and withdrawal of the rejection is respectfully requested.

If any fee is due in conjunction with the filing of this response, Applicants authorize deduction of that fee from Deposit Account 06-0308.

In view of the above, Applicants submit that this application is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

FAY, SHARPE, BEALL, FAGAN,
MINNICH & McKEE, LLP



Scott A. McCollister
Reg. No. 33,961
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114-2518
(216) 861-5582

CERTIFICATE OF MAILING

I hereby certify that this AMENDMENT is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231, on March 11, 1999.

By: _____


Georgeen B. George